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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,721	02/17/2000	Joseph A. Giordano	03204.0063	7099
27810	7590	11/29/2006	EXAMINER	
MARK D. MARIN NORRIS, McLAUGHLIN & MARCUS, P.A. 875 THIRD AVE. 18TH FLOOR NEW YORK, NY 10022				GRAHAM, CLEMENT B
		ART UNIT		PAPER NUMBER
				3692

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/505,721	GIORDANO ET AL.
	Examiner	Art Unit
	Clement B. Graham	3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 28,31-59,63-65,83 and 84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 28,31-59,63-65,83 and 84 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. Claims 85-90, has been cancelled and claims 28, 31-59, and 63-65, and 83-94 remained pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 28, 31-59, 63-65 and 83-84, are rejected under 35 U.S.C. 102(e) as being anticipated by Kaehler et al (Hereinafter Kaehler 6, 089, 284).

As per claim 28, Kaehler discloses a system, comprising the following components:

- i) a customer transceiver (i. e, transponder") comprising memory(see fig: 4a and see column19 lines 3-29) wherein said customer transceiver generates operating power (i. e, passive or active" see column 7 lines 5-10") after receiving a first radio frequency signal and subsequently transmits a second radio frequency signal that conveys a customer/transmitter identifier(see column 2 lines 49-65)
- ii) a merchant transceiver (i. e, transmitter/receiver see column 21 lines 24-27") comprised of a transceiver antenna (see column 20 lines 35 –59) that (a) sends said first radio frequency signal to said customer transceiver and (b) receives said second radio frequency signal conveying said customer/transmitter identifier from said customer transceiver(see column 2 lines 49-65)
- iii) a point-of-sale device processor (see column 7 lines 30-58) in communication with said merchant transceiver, that (a) captures transaction data, (b) combines the transaction data with said a customer/transmitter identifier(i. e, transponder identifier see column 31 lines 60-67 and column 32 lines 1-6") and a merchant identifier ("inherent) to form an authorization request, and (c) transmits the authorization request

to a transaction system(see column 13 lines 36-49 and column 2 lines 49-65 and column 11 lines 1-14) and

iv a transaction processing system comprising: a memory having program instructions; and a processor configured to use said program instructions to (a) receive said authorization request; (b) determine, from said customer/transmitter identifier and merchant identifier, a payment processor; (c) transmit said an authorization request to said payment processor for authorization; and (d) transmit to said point-of-sale devices said payment processor's response to said authorization request.(see column 13 lines 36-49 and column 11 lines 1-14 and column 8 lines 58-67 an column 9 lines 1-18).

As per claim 31, Kaehler discloses wherein said customer transceiver ("i. e, transponder") is further comprised of a processor coupled to said memory(see Fig: 4a) wherein said processor adapted to read to from, and write data to, said memory.(see column 8 lines 22-34 and see column 29 lines 26-32 and see fig: 4a and see column19 lines 3-29).

As per claim 32, Kaehler discloses wherein said customer transceiver ("i. e, transponder") is further comprised of a security Pad operable to capture biometric data and to convert said data into an electronic representation of said data.(see column 2 lines 49-65 and see column 29 lines 26-32).

As per claim 33, Kaehler discloses wherein said biometric data is a fingerprint .(see column 1 lines 63-67and see column 29 lines 26-32 and see column 2 lines 49-65).

As per claim 34, Kaehler discloses wherein said biometric data is a palm print. .(see column 1 lines 63-67 and .(see column 2 lines 49-65).

As per claim 35, Kaehler discloses wherein said customer transceiver("i. e, transponder") compare an electronic representation of stored in said customer transceiver memory (see fig: 4a and see column19 lines 3-29) and transmit said customer/transmitter identifier when said captured biometric data is identical to said digital image stored in said customer transceiver memory.(see column 2 lines 49-65 and see column 29 lines 26-32).

As per claim 36, Kaehler discloses wherein said customer transceiver processor is adapted to: compare a transaction amount with a dollar amount stored in said customer transceiver memory and inhibit transmission of said customer/transmitter identifier when said transaction amount is greater than said dollar amount. (see fig: 4a and see column 19 lines 3-29).

As per claim 37, Kaehler discloses wherein said customer transceiver processor is adapted to subtract a transaction amount from a dollar amount stored in said customer transceiver memory when said transaction is authorized. (see column 19 lines 3-29).

As per claim 38, Kaehler discloses wherein said customer transceiver ("i. e, transponder") is further comprised of: a processor ("inherent with computers") coupled to the memory ("inherent with computers") and a keyboard ("inherent with computers") coupled to the processor; wherein said processor is operable to transmit information stored in said memory, or manually entered via said keyboard.(see column 6 lines 55-67 and column 7 lines 1-10).

As per claim 39, Kaehler discloses wherein said customer transceiver is embedded inside an article of clothing. (see column 6 lines 55-67 and column 7 lines 1-10).

As per claim 40, Kaehler discloses wherein said customer transceiver is embedded inside an item of jewelry.(see fig:2c and .(see column 6 lines 55-67 and column 7 lines 1-10).

As per claim 41, Kaehler discloses wherein said customer transceiver is embedded inside an electronic device. (see fig:2c and see column 6 lines 55-67 and column 7 lines 1-10).

As per claim 42, Kaehler discloses wherein said merchant transceiver is further comprised of: a processor coupled to the transceiver; and a keyboard coupled to the processor; wherein said processor is operable to receive information manually entered into said keyboard or received via said transceiver.(see column 7 lines 30-59).

As per claim 43, Kaehler discloses wherein said merchant transceiver is further comprised of a display device for displaying information to a user.(see column 9 lines 19-45).

As per claim 44, Kaehler discloses wherein said merchant transceiver is further comprised of a printer for printing a receipt.(see column 7 lines 29-35).

As per claim 45, Kaehler discloses wherein said merchant transceiver is further comprised of a memory operable to store information relating to a transaction. (see fig: 4a and see column19 lines 3-29).

As per claim 46, Kaehler discloses wherein said merchant transceiver is further comprised of a communication interface for communicating with external computing devices.(see column 2 lines 49-65).

As per claim 47, Kaehler discloses wherein said communication interface provides wireless connectivity to a point-of-sale device.(see column 28 lines 27-43).

As per claim 48, Kaehler discloses wherein said communication interface provides connectivity to a CATV network.(see column 7 lines 20-29).

As per claim 49, Kaehler discloses wherein said communication interface provides connectivity to the public switched telephone network (PSTN).(see column 11 lines 15-40).

As per claim 50, Kaehler discloses wherein said communication interface provides connectivity to a self-service vending machine or pay telephone. (see column 11 lines 15-40).

As per claim 51 Kaehler discloses a method comprising the following steps: transmitting a first radio frequency signal to a customer transceiver that generates operating power ("i. e, passive or active "see column 7 lines 1-10 ") after receiving said first radio frequency signal(see column 2 lines 49-65)

- (ii) subsequently transmitting, from said customer transceiver("i. e, transponder") a second radio frequency signal that conveys customer identification data;
- iii receiving said second radio frequency signal including said customer identification data. (see column 2 lines 49-65)
- iv creating an authorization request based at least in part upon the receipt of the customer identification data, the authorization request comprising: a merchant identifier, transaction data and the customer identification data (see column 13 lines 36-49 and

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column 2 lines 49-65 and column 11 lines 1-14 and column 8 lines 59-67 and column 9 lines 1-18)

(v) communicating the authorization request to a transaction processor selecting a payment processor at the transaction processor based at least in part upon information associated with the customer identification data and the merchant identifier ("inherent") stored in a database accessible by the transaction processor; and
vii communicating the selected payment processor for approval and payment.(see column 13 lines 36-49 and column 11 lines 1-14 and column 8 lines 58-67 and column 9 lines 1-18).

As per claim 52, Kaehler discloses further comprising communicating said customer identification data to a point of sale device.(see column 2 lines 49-65).

As per claim 53, Kaehler discloses wherein said customer identification data is communicated to said point of sale device and said point of sale device is coupled to said receiver.(see column 7 lines 45-55).

As per claim 54, Kaehler discloses wherein said customer identification data is communicated to said point of sale device and said point of sale device is integral with said receiver. .(see column 7 lines 45-55).

As per claim 55, Kaehler discloses further comprising: processing the purchase transaction for approval and payment. (see column 19 lines 3-29).

As per claim 56, Kaehler discloses wherein communicating the authorization request to a transaction processor further comprises encrypting the authorization request.(see column 8 lines 57).

As per claim 57, Kaehler discloses wherein the database information comprises a preassigned payment methods associated with (vi)
the customer identification data and merchant identifier and, the processing of the authorization request at the transaction processor further comprises processing the purchase transaction according to the a preassigned payment method.(see column 11 lines 1-14 and column 7 lines 29-43).

As per claim 58, Kaehler discloses wherein the preassigned payment methods is are preselected by a customer.(see column 11 lines 1-14 and column 7 lines 29-43).

As per claim 59, Kaehler discloses wherein the preassigned payment method is associated with a merchant and the preassigned payment method may vary for transactions with different merchants. (see column 11 lines 1-14 and column 7 lines 29-43).

As per claim 63, Kaehler discloses wherein the point of sale device is coupled to a security device that prevents unauthorized use of the transceiver.(see column 31 lines 60-67 and column 32 lines 1-6).

As per claim 64, Kaehler discloses wherein the security device further comprises a biometric recording device.(see column 29 lines 10-32).

As per claim 65, Kaehler discloses further comprising: inputting a password or Personal Identification Number (PIN) into a security device in communication with said point of sale device.(se column 1 lines 53-67 and column 7 lines 44-58).

As per claim 83, Kaehler discloses wherein said customer/transmitter identifier does not contain a customer's credit card or debit card number.(see column 1 lines 25-51).

As per claim 84, Kaehler discloses wherein said customer identification data does not contain a customer's credit card or debit card number.(see column 1 lines 25-51).

Conclusion

RESPONSE TO ARGUMENTS

4. Applicant's arguments filed 9/12/2006 has been fully considered but they are persuasive for the following reasons.

5. In response to Applicant's arguments that Kaehler fail to teach or suggest "transaction processing system, and a processor to determine from said customer transmitter identifier and merchant identifier and a payment processor, customer transceiver and customer transceiver that compares and inhibit transmission of said customer transmitter identifier when said transaction amount is greater than said dollar amount and customer transceiver comprised a processor coupled to memory and a keyboard coupled to a processor and a customer transceiver is embedded in clothes or jewelry and selecting payment processor based on information associated with the merchant identifier and preassigned payment methods associated with customer

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identification, and preassigned payment methods may vary for transactions with different merchants" the Examiner disagrees with Applicant's because the limitations are addressed as stated.

Kaehler teaches a customer transceiver (i. e, transponder") comprising memory see fig: 4a and see column 19 lines 3-29 wherein said customer transceiver generates operating power i. e, passive or active" see column 7 lines 5-10" after receiving a first radio frequency signal and subsequently transmits a second radio frequency signal that conveys a customer/transmitter identifier see column 2 lines 49-65 (ii) a merchant transceiver i. e, transmitter/receiver see column 21 lines 24-27") comprised of a transceiver antenna see column 20 lines 35 –59) that (a) sends said first radio frequency signal to said customer transceiver and (b) receives said second radio frequency signal conveying said customer/transmitter identifier from said customer transceiver see column 2 lines 49-65 (iii) a point-of-sale device processor see column 7 lines 30-58 in communication with said merchant transceiver, that (a) captures transaction data, (b) combines the transaction data with said a customer/transmitter identifier(i. e, transponder identifier see column 31 lines 60-67 and column 32 lines 1-6" and a merchant identifier ("inherent) to form an authorization request, and (c) transmits the authorization request to a transaction system see column 13 lines 36-49 and column 2 lines 49-65 and column 11 lines 1-14 and
iv a transaction processing system comprising: a memory having program instructions; and a processor configured to use said program instructions to (a) receive said authorization request; (b) determine, from said customer/transmitter identifier and merchant identifier, a payment processor; (c) transmit said an authorization request to said payment processor for authorization; and (d) transmit to said point-of-sale devices said payment processor's response to said authorization request. see column 13 lines 36-49 and column 11 lines 1-14 and column 8 lines 58-67 an column 9 lines 1-18 wherein said customer transceiver "i. e, transponder" is further comprised of a processor coupled to said memory(see Fig: 4a) wherein said processor adapted to read to from, and write data to, said memory see column 8 lines 22-34 and see column 29 lines 26-32 and see fig: 4a and see column 19 lines 3-29 wherein said

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customer transceiver ("i. e, transponder") is further comprised of a security Pad operable to capture biometric data and to convert said data into an electronic representation of said data.see column 2 lines 49-65 and see column 29 lines 26-32 wherein said biometric data is a fingerprint see column 1 lines 63-67and see column 29 lines 26-32 and see column 2 lines 49-65 wherein said biometric data is a palm print. (see column 1 lines 63-67 and see column 2 lines 49-65 wherein said customer transceiver("i. e, transponder") compare an electronic representation of stored in said customer transceiver memory see fig: 4a and see column19 lines 3-29 and transmit said customer/transmitter identifier when said captured biometric data is identical to said digital image stored in said customer transceiver memory see column 2 lines 49-65 and see column 29 lines 26-32 wherein said customer transceiver processor is adapted to: compare a transaction amount with a dollar amount stored in said customer transceiver memory and inhibit transmission of said customer/transmitter identifier when said transaction amount is greater than said dollar amount. see fig: 4a and see column 19 lines 3-29 wherein said customer transceiver processor is adapted to subtract a transaction amount from a dollar amount stored in said customer transceiver memory when said transaction is authorized see column19 lines 3-29 wherein said customer transceiver ("i. e, transponder") is further comprised of: a processor ("inherent with computers") coupled to the memory ("inherent with computers") and a keyboard ("inherent with computers") coupled to the processor; wherein said processor is operable to transmit information stored in said memory, or manually entered via said keyboard. see column 6 lines 55-67 and column 7 lines 1-10.

Therefore it is inherently clear that Applicant's claimed limitations were addressed within the teachings of Kaehler.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlid communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

November 24, 2006


FRANTZ PONVIL
PRIMARY EXAMINER
All 3692